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Annual report of the International Tribunal for the Law of the Sea for 2017

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3(d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2017.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea. It functions in accordance with the relevant provisions of part XV and part XI of the Convention, the Statute of the Tribunal, as contained in annex VI to the Convention, and the Rules of the Tribunal.

II. Organization of the Tribunal

3. The Tribunal is composed of 21 members, elected by the States parties to the Convention in the manner provided for in article 4 of the Statute.

4. In accordance with article 5, paragraph 1, of the Statute, the terms of office of seven members expired on 30 September 2017.

5. On 15 September 2016, Judge Cachapuz de Medeiros (Brazil), one of the members whose term of office was to expire on 30 September 2017, passed away. With his death, a vacancy occurred in the Tribunal. Taking this change into account, until 30 September 2017, the composition of the Tribunal was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
Vladimir Vladimirovich Golitsyn	Russian Federation	30 September 2017
Vice-President		
Boualem Bouguetaia	Algeria	30 September 2017
Judges		
P. Chandrasekhara Rao	India	30 September 2017
Joseph Akl	Lebanon	30 September 2017
Rüdiger Wolfrum	Germany	30 September 2017
Tafsir Malick Ndiaye	Senegal	30 September 2020
Jose Luis Jesus	Cabo Verde	30 September 2017
Jean-Pierre Cot	France	30 September 2020
Anthony Amos Lucky	Trinidad and Tobago	30 September 2020
Stanislaw Pawlak	Poland	30 September 2023
Shunji Yanai	Japan	30 September 2023
James L. Kateka	United Republic of Tanzania	30 September 2023
Albert J. Hoffmann	South Africa	30 September 2023

Order of precedence	*Country*	*Date of expiry of term of office*
Zhiguo Gao	China	30 September 2020
Jin-Hyun Paik	Republic of Korea	30 September 2023
Elsa Kelly	Argentina	30 September 2020
David Joseph Attard	Malta	30 September 2020
Markiyan Z. Kulyk	Ukraine	30 September 2020
Alonso Gómez-Robledo Verduzco	Mexico	30 September 2023
Tomas Heidar	Iceland	30 September 2023

6. Further to the triennial election, which took place in June 2017, the composition of the Tribunal since 1 October 2017 has been as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
Jin-Hyun Paik	Republic of Korea	30 September 2023
Vice-President		
David Joseph Attard	Malta	30 September 2020
Judges		
Tafsir Malick Ndiaye	Senegal	30 September 2020
José Luis Jesus	Cabo Verde	30 September 2026
Jean-Pierre Cot	France	30 September 2020
Anthony Amos Lucky	Trinidad and Tobago	30 September 2020
Stanislaw Pawlak	Poland	30 September 2023
Shunji Yanai	Japan	30 September 2023
James L. Kateka	United Republic of Tanzania	30 September 2023
Albert J. Hoffmann	South Africa	30 September 2023
Zhiguo Gao	China	30 September 2020
Boualem Bouguetaia	Algeria	30 September 2026
Elsa Kelly	Argentina	30 September 2020
Markiyan Z. Kulyk	Ukraine	30 September 2020
Alonso Gómez-Robledo Verduzco	Mexico	30 September 2023
Tomas Heidar	Iceland	30 September 2023
Oscar Cabello Sarubbi	Paraguay	30 September 2026

Order of precedence	*Country*	*Date of expiry of term of office*
Neeru Chadha	India	30 September 2026
Kriangsak Kittichaisaree	Thailand	30 September 2026
Roman A. Kolodkin	Russian Federation	30 September 2026
Liesbeth Lijnzaad	Netherlands	30 September 2026

7. The Registrar of the Tribunal is Philippe Gautier (Belgium). The Deputy Registrar is Ximena Hinrichs Oyarce (Chile).

A. Changes in the composition of the Tribunal

1. Election of seven members of the Tribunal

8. The triennial election to fill the positions of seven members whose terms of office expired on 30 September 2017 took place during the twenty-seventh Meeting of States Parties, held from 12 to 16 June 2017.

9. Acting pursuant to article 4, paragraph 2, of the Statute, the Registrar, in a note verbale dated 14 December 2016, invited the States Parties to the Convention to submit within the two-month period from 9 January to 10 March 2017 the names of candidates they might wish to nominate for election as members of the Tribunal. An alphabetical list of all persons nominated, with an indication of the States parties having nominated them, was then prepared by the Registrar and submitted to the States parties as document SPLOS/308 of 15 March 2017. In addition, a list of nominations was made accessible through the website of the Tribunal (www.itlos.org (English) and www.tidm.org (French)).

10. On 14 June 2017, the twenty-seventh Meeting of States Parties re-elected Judges Bouguetaia and Jesus, and elected Oscar Cabello Sarubbi, Neeru Chadha, Kriangsak Kittichaisaree, Roman Kolodkin and Liesbeth Lijnzaad.

2. Solemn declaration

11. Pursuant to article 11 of the Statute, every member of the Tribunal is required, before taking up his/her duties, to make a solemn declaration that he/she will exercise his/her powers impartially and conscientiously.

12. The solemn declaration provided for in article 5 of the Rules was made by newly elected Judges Cabello, Chadha, Kittichaisaree, Kolodkin and Lijnzaad at a public sitting of the Tribunal on 2 October 2017.

B. Election of the President and the Vice-President

13. On 2 October 2017, the judges elected Judge Jin-Hyun Paik President of the Tribunal and Judge David Joseph Attard Vice-President, for a term of three years. The President and the Vice-President entered upon their functions forthwith.

C. Election of the Deputy Registrar

14. On 15 March 2017, the Tribunal elected Ximena Hinrichs Oyarce (Chile) as Deputy Registrar of the Tribunal for a term of five years starting on 25 June 2017.

III. Chambers

A. Seabed Disputes Chamber

15. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the Tribunal from among its elected members. The members of the Chamber are selected triennially.

16. Pursuant to article 23 of the Rules, the terms of office of members selected on 2 October 2014 expired on 30 September 2017. Until that date the composition of the Chamber, in order of precedence, was as follows: Judge Jesus, President; Judges Akl, Ndiaye, Cot, Lucky, Pawlak, Yanai, Kateka, Paik, Kelly and Attard, members.

17. During the forty-fourth session, on 4 October 2017, the Tribunal selected the members of the Seabed Disputes Chamber. As required by the Statute, the judges of the Chamber were selected in such a manner as to ensure the representation of the principal legal systems of the world and equitable geographical distribution. The members of the Chamber entered upon their duties forthwith and elected Judge Hoffmann President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Hoffmann, President; Judges Cot, Lucky, Pawlak, Yanai, Kateka, Gao, Bouguetaia, Kelly, Kulyk and Heidar, members.

18. The terms of office of the members of the Chamber expire on 30 September 2020.

B. Special chambers

1. Chamber of Summary Procedure

19. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. The Chamber is constituted annually.

20. During the forty-fourth session, on 4 October 2017, the Chamber was constituted for the period from 1 October 2017 to 30 September 2018. The members of the Chamber, in order of precedence, are as follows: Judge Paik, President (ex officio); Vice-President Attard (ex officio) and Judges Ndiaye, Cot and Kelly, members; Judges Kolodkin and Lijnzaad, alternates.

2. Chamber for Fisheries Disputes

21. On 20 February 1997, the Tribunal established the Chamber for Fisheries Disputes in accordance with article 15, paragraph 1, of the Statute.

22. The terms of office of the members of the Chamber selected on 2 October 2014 expired on 30 September 2017. On 15 September 2016, Judge Cachapuz de Medeiros, who was a member of the Chamber, passed away. Taking that change into account, until 30 September 2017 the composition of the Chamber, in order of precedence, was as follows: Judge Lucky, President; Judges Wolfrum, Ndiaye, Yanai, Kateka, Gao, Kulyk and Heidar, members.

23. During the forty-fourth session, on 4 October 2017, the Tribunal selected the members of the Chamber for a three-year term. The members of the Chamber entered upon their duties forthwith and elected Judge Heidar President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Heidar, President; Judges Jesus, Lucky, Yanai, Hoffmann, Cabello Sarubbi, Chadha, Kittichaisaree and Kolodkin, members.

24. The terms of office of the members of the Chamber expire on 30 September 2020.

3. Chamber for Marine Environment Disputes

25. On 20 February 1997, the Tribunal established the Chamber for Marine Environment Disputes in accordance with article 15, paragraph 1, of the Statute.

26. The terms of office of the members of the Chamber selected on 2 October 2014 expired on 30 September 2017. Until that date the composition of the Chamber, in order of precedence, was as follows: Judge Kateka, President; Judges Pawlak, Hoffmann, Gao, Paik, Kelly, Attard, Kulyk and Gómez-Robledo, members.

27. During the forty-fourth session, on 4 October 2017, the Tribunal selected the members of the Chamber for a three-year term. The members of the Chamber entered upon their duties forthwith and elected Judge Pawlak President of the Chamber. The composition of the Chamber, in order of precedence, is as follows: Judge Pawlak, President; Judges Ndiaye, Gao, Kelly, Kulyk, Gómez-Robledo, Cabello Sarubbi, Chadha and Lijnzaad, members.

28. The terms of office of the members of the Chamber expire on 30 September 2020.

4. Chamber for Maritime Delimitation Disputes

29. On 16 March 2007, the Tribunal established the Chamber for Maritime Delimitation Disputes in accordance with article 15, paragraph 1, of the Statute.

30. The terms of office of the members of the Chamber selected on 2 October 2014 expired on 30 September 2017. Until that date the composition of the Chamber, in order of precedence, was as follows: Judge Golitsyn, President; Judges Bouguetaia, Chandrasekhara Rao, Wolfrum, Ndiaye, Jesus, Yanai, Hoffmann, Gao, Gómez-Robledo and Heidar, members.

31. During the forty-fourth session, on 4 October 2017, the Tribunal selected the members of the Chamber for a three-year term. The members of the Chamber entered upon their duties forthwith. The composition of the Chamber, in order of precedence, is as follows: Judge Paik, President (ex officio); Vice-President Attard; Judges Jesus, Kateka, Bouguetaia, Gómez-Robledo, Chadha, Kittichaisaree, Kolodkin and Lijnzaad, members.

32. The terms of office of the members of the Chamber expire on 30 September 2020.

IV. Committees

33. During the forty-fourth session, on 4 October 2017, the Tribunal reconstituted its committees. They are composed as follows:[1]

A. Committee on Budget and Finance

34. The members of the Committee on Budget and Finance are: Judge Yanai, Chairman; Judges Jesus, Pawlak, Hoffmann, Gao, Bouguetaia, Kulyk, Gómez-Robledo and Cabello Sarubbi, members.

[1] For the terms of reference of the committees, see SPLOS/27, paras. 37–40; SPLOS/50, paras. 36–37; and SPLOS/136, para. 46.

B. Committee on Rules and Judicial Practice

35. The members of the Committee on Rules and Judicial Practice are: President Paik, Chairman; Vice-President Attard, Judges Ndiaye, Jesus, Cot, Gómez-Robledo, Heidar, Chadha and Lijnzaad, members.

C. Committee on Staff and Administration

36. The members of the Committee on Staff and Administration are: Judge Jesus, Chairman; Judges Lucky, Yanai, Hoffmann, Heidar and Kolodkin, members.

D. Committee on Library, Archives and Publications

37. The members of the Committee on Library, Archives and Publications are: Judge Gao, Chairman; Judges Ndiaye, Pawlak, Kateka, Gómez-Robledo and Kolodkin, members.

E. Committee on Buildings and Electronic Systems

38. The members of the Committee on Buildings and Electronic Systems are: Judge Kulyk, Chairman; Judges Cot, Lucky, Kateka, Kelly and Kittichaisaree, members.

F. Committee on Public Relations

39. The members of the Committee on Public Relations are: Judge Heidar, Chairman; Judges Cabello Sarubbi, Chadha, Kittichaisaree, and Lijnzaad, members.

V. Meetings of the Tribunal

40. In 2017, judicial meetings of the Tribunal took place as follows:

Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)

Initial deliberations of the Special Chamber constituted to deal with the case were held on 2 and 3 February 2017. The oral proceedings took place from 6 to 16 February 2017 and the Special Chamber met for deliberations from 23 February to 3 March 2017.

The Special Chamber met from 26 June to 5 July 2017 and on 14, 15 and 21 September 2017 to consider and adopt the draft judgment. The Special Chamber delivered its judgment on 23 September 2017.

41. The Tribunal also held two sessions devoted to legal and judicial matters as well as organizational and administrative matters: the forty-third session was held from 13 to 24 March 2017, and the forty-fourth session from 25 September to 6 October 2017.

42. The Tribunal decided to hold its forty-fifth session from 12 to 23 March 2018, to deal with legal and judicial matters and with organizational and administrative matters.

VI. Judicial work of the Tribunal

A. *The M/V "Norstar" Case (Panama v. Italy)*

43. On 17 December 2015, Panama filed an application with the Tribunal dated 16 November 2015 instituting proceedings against Italy in a dispute between the two States concerning the interpretation and application of the Convention "in connection with the arrest and detention by Italy of *M/V Norstar*, an oil tanker registered under the flag of Panama". The case was entered in the list of cases of the Tribunal as case No. 25.

44. On 3 February 2016, the President adopted an order fixing 28 July 2016 as the time-limit for the filing of the memorial by Panama, and 28 January 2017 as the time-limit for the filing of the counter-memorial by Italy.

45. On 11 March 2016, within the time-limit set by article 97, paragraph 1, of the Rules, Italy filed with the Tribunal "written preliminary objections under article 294, paragraph 3, of the Convention", in which Italy challenged "the jurisdiction of [the] Tribunal as well as the admissibility of Panama's claim".

46. Upon receipt of the preliminary objections by the Registry, the proceedings on the merits were suspended, pursuant to article 97, paragraph 3, of the Rules.

47. The Tribunal delivered its judgment on the preliminary objections on 4 November 2016.[2]

48. On 29 November 2016, the President, having ascertained the views of the parties, adopted an order fixing 11 April 2017 as the time-limit for the filing of the memorial of Panama, and 11 October 2017 as the time-limit for the filing of the counter-memorial of Italy. The pleadings were filed within the prescribed time-limits.

49. On 15 November 2017, the Tribunal adopted an order fixing 28 February 2018 as the time-limit for the filing of the reply of Panama, and 13 June 2018 as the time-limit for the filing of the rejoinder of Italy.

B. *Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*

50. On 3 December 2014, a special agreement was concluded between Ghana and Côte d'Ivoire to submit the dispute concerning the delimitation of their maritime boundary in the Atlantic Ocean to a special chamber of the Tribunal to be formed pursuant to article 15, paragraph 2, of the Statute. The Registrar was notified of the special agreement on the same date. The case was entered in the Tribunal's list of cases as case No. 23.

51. By order dated 12 January 2015, the Tribunal constituted the special chamber as follows: Judge Bouguetaia, President; Judges Wolfrum and Paik, and Judges ad hoc Thomas Mensah and Ronny Abraham, members.

52. On 24 February 2015, the President of the Special Chamber adopted an order fixing 4 September 2015 as the time-limit for the filing of the memorial by Ghana, and 4 April 2016 as the time-limit for the filing of the counter-memorial by Côte

[2] A summary of the judgment on preliminary objections of 4 November 2016 is contained in paragraphs 50 to 59 of the annual report of the International Tribunal for the Law of the Sea for 2016 (SPLOS/304).

d'Ivoire. The memorial and the counter-memorial were filed within the prescribed time-limits.

53. On 27 February 2015, Côte d'Ivoire filed a request for the prescription of provisional measures by the Special Chamber in accordance with article 290, paragraph 1, of the Convention. The Special Chamber delivered its order on 25 April 2015.

54. On 16 March 2016, the Special Chamber adopted an order authorizing the submission of a reply by Ghana and a rejoinder by Côte d'Ivoire and fixing 4 July and 4 October 2016, respectively, as the time-limits for the filing of the pleadings.

55. Subsequently, by order dated 25 April 2016, the President of the Special Chamber extended the time-limits for the submission of the reply and the rejoinder to 25 July and 14 November 2016, respectively. The reply and the rejoinder were filed within the extended time-limits.

56. On 15 December 2016, the President of the Special Chamber adopted an order fixing 6 February 2017 as the date for the opening of the oral proceedings in the case. Oral proceedings were held from 6 to 16 February 2017, in nine public sittings.

57. The Special Chamber delivered its judgment on 23 September 2017. In its judgment, the Special Chamber delimited the maritime boundary between the two parties in the territorial sea, the exclusive economic zone and the continental shelf, including the continental shelf beyond 200 nautical miles. In addition, the Chamber dealt with Côte d'Ivoire's claim that the responsibility of Ghana was engaged for alleged violations of the rights of Côte d'Ivoire.

58. The first question that the Special Chamber had to examine was "whether the Parties ha[d] already effected by agreement the course of their maritime boundary" (see para. 100 of the judgment). Ghana was of the view that a tacit agreement did exist on the basis of, inter alia, the parties' "oil practice" for more than five decades (see para. 113). This contention was opposed by Côte d'Ivoire (see para. 114). After examining the arguments and facts presented by the parties, the Special Chamber found that "there is no tacit agreement between the Parties to delimit their territorial sea, exclusive economic zone and continental shelf both within and beyond 200 nm" (see para. 228).

59. The Special Chamber expressed the view that "evidence relating solely to the specific purpose of oil activities in the seabed and subsoil is of limited value in proving the existence of an all-purpose boundary which delimits not only the seabed and subsoil but also superjacent water columns" (see para. 226).

60. Regarding the delimitation methodology, the Special Chamber found "no convincing reason to deviate ... from the equidistance-relevant circumstances methodology" (see para. 324). While Côte d'Ivoire had argued in favour of the application of the "angle bisector methodology" (see para. 291), the Special Chamber noted that the relevant coasts of the parties were straight and not unstable, and, therefore, it saw no reason to assume that the identification of base points and the drawing of a provisional equidistance line would be impossible or inappropriate (see paras. 302 and 318).

61. After having established the provisional equidistance line, the Special Chamber examined "whether relevant circumstances requiring an adjustment of ... [that] line ... exist", (see para. 402) and came to a negative conclusion (see para. 480).

62. Regarding a possible cut-off resulting from the equidistance line, the Special Chamber held that "some cut-off effect exists to the detriment of Côte d'Ivoire" (see para. 424) but that this effect is "not so significant" as to require an adjustment of the line (see paragraph 425). It held, in particular, that the cut-off only affects a part of

the coast of Côte d'Ivoire and only comes into being 163 nm from the starting point of the equidistance line (see paragraph 424).

63. With respect to the question as to whether the location of maritime mineral resources should be considered a relevant circumstance, the Special Chamber emphasized that "[m]aritime delimitation is not a means for distributing justice" (see paragraph 452) and that the pertinent international jurisprudence, "at least in principle, favours maritime delimitation which is based on geographical considerations" and "[o]nly in extreme situations ... may considerations other than geographical ones become relevant" (see paragraph 453).

64. Regarding the delimitation of the continental shelf beyond 200 nautical miles, the Special Chamber applied the same delimitation methodology as within 200 nm (see para. 526).

65. After having delimited the maritime boundary between the parties, the Special Chamber had to deal with Côte d'Ivoire's claim relating to Ghana's international responsibility. Côte d'Ivoire argued that Ghana's conduct in the disputed part of the continental shelf had violated Côte d'Ivoire's sovereign rights as well as article 83 of the Convention and the provisional measures prescribed by the Special Chamber in its order of 25 April 2015 (see para. 544). The Special Chamber, however, came to the conclusion that none of Ghana's activities engaged its international responsibility.

66. In order to reach this conclusion, the Special Chamber provided some clarification of the interpretation of article 83, paragraph 3, of the Convention. This provision contains two obligations incumbent upon States that are parties to a delimitation dispute, namely, the obligation to "make every effort to enter into provisional arrangements of a practical nature" and the obligation "not to jeopardize or hamper the reaching of the final agreement". The Special Chamber pointed out that both obligations are obligations of conduct (see para. 627 and 629). Thus, the States concerned are not obliged to reach an agreement on provisional arrangements; however, they are under a duty to act in good faith (see para. 627). In this respect, the Special Chamber emphasized the general obligation under article 83, paragraph 3, whereby, in the transitional period, States have to act "in a spirit of understanding and cooperation" (see para. 630).

67. The operative provisions of the Special Chamber's judgment of 23 September 2017 are set out below.

> The Special Chamber
>
> (1) Unanimously,
>
> *Finds* that it has jurisdiction to delimit the maritime boundary between the Parties in the territorial sea, in the exclusive economic zone and on the continental shelf, both within and beyond 200 nm.
>
> (2) Unanimously,
>
> *Finds* that there is no tacit agreement between the Parties to delimit their territorial sea, exclusive economic zone and continental shelf both within and beyond 200 nm, and *rejects* Ghana's claim that Côte d'Ivoire is estopped from objecting to the "customary equidistance boundary".
>
> (3) Unanimously,
>
> *Decides* that the single maritime boundary for the territorial sea, the exclusive economic zone and the continental shelf within and beyond 200 nm starts at BP 55+ with the coordinates 05° 05' 23.2" N, 03° 06' 21.2" W in WGS 84 as a geodetic datum and is defined by turning points A, B, C, D, E, F with the following coordinates and connected by geodetic lines:

A: 05° 01' 03.7" N 03° 07' 18.3" W
B: 04° 57' 58.9" N 03° 08' 01.4" W
C: 04° 26' 41.6" N 03° 14' 56.9" W
D: 03° 12' 13.4" N 03° 29' 54.3" W
E: 02° 59' 04.8" N 03° 32' 40.2" W
F: 02° 40' 36.4" N 03° 36' 36.4" W

From turning point F, the single maritime boundary continues as a geodetic line starting at an azimuth of 191° 38' 06.7" until it reaches the outer limits of the continental shelf.

(4) Unanimously,

Finds that it has jurisdiction to decide on the claim of Côte d'Ivoire against Ghana on the alleged international responsibility of Ghana.

(5) Unanimously,

Finds that Ghana did not violate the sovereign rights of Côte d'Ivoire.

(6) Unanimously,

Finds that Ghana did not violate article 83, paragraphs 1 and 3, of the Convention.

(7) Unanimously,

Finds that Ghana did not violate the provisional measures prescribed by the Special Chamber in its Order of 25 April 2015.

VII. Legal matters

68. During the period under review, the Tribunal devoted part of its two sessions to the consideration of legal and judicial matters. In this respect, the Tribunal examined various legal issues of relevance to its jurisdiction, its Rules and its judicial procedures. The review was undertaken both by the Tribunal and by its chambers. Some of the subjects considered are noted below.

A. Jurisdiction, Rules and judicial procedures of the Tribunal

1. Declarations made under articles 287 and 298 of the Convention

69. During the period under review, the Tribunal took note of the information presented by the Registry concerning the status of declarations made under articles 287 and 298 of the Convention.

2. Rules of the Tribunal

70. During the period under review, the Tribunal examined issues relating to the publication of initial reports submitted by parties in provisional measures proceedings before the Tribunal, on the basis of an information paper prepared by the Registry.

B. Recent developments in law of the sea matters

71. During the period under review, the Tribunal considered reports prepared by the Registry concerning recent developments in law of the sea matters.

C. Chambers

72. During the period under review, the Chambers of the Tribunal held meetings in which they considered reports prepared by the Registry on matters falling under their responsibilities.

VIII. Twentieth anniversary of the Tribunal

73. In addition to a series of events organized in 2016 to celebrate the Tribunal's twentieth anniversary, on 18 March 2017, a further symposium on the theme "ITLOS at 20: looking into the future" was held at the Tribunal. The following made statements on the occasion: the President of the Tribunal, Vladimir Golitsyn; the Secretary-General of the Seabed Authority, Michael Lodge; the Director of the Division for Ocean Affairs and the Law of the Sea of the United Nations Secretariat, Gabriele Goettsche-Wanli; a representative of the Legal Service of the European Commission, Esa Paasivirta; Judge Tomas Heidar; and a professor at Nagoya University, Yukari Takamura. The symposium also included a round table discussion on the topic "A user-friendly Tribunal in the service of the international community", presided by Judge Shunji Yanai, with the participation of Judge José Luis Jesus and the Registrar, Philippe Gautier. A webcast of the symposium is available in the twentieth anniversary section of the Tribunal's website. The symposium was made possible with the financial support of the Government of Japan.

IX. Agreement on Privileges and Immunities

74. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea was adopted by the seventh Meeting of States Parties on 23 May 1997. The Agreement was opened for signature for 24 months as from 1 July 1997 (SPLOS 24, para. 27) and entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. As at 31 December 2017, 41 States had ratified or acceded to it.

X. Relations with the United Nations

75. At the 63rd plenary meeting of the seventy-second session of the General Assembly, on 5 December 2017, the President of the Tribunal delivered a statement under agenda item 77 (a), "Oceans and the law of the sea".[1] In his statement, the President gave an overview of the role played by the Tribunal in exercising its contentious jurisdiction and noted, in particular, that the Tribunal had demonstrated its capacity to deal with complex maritime delimitation cases. The President also offered some remarks about the future work of the Tribunal, highlighting maritime delimitation, the arrest and detention of vessels and the Tribunal's potential role in the peaceful settlement of disputes concerning emerging issues relating to the law of the sea.

XI. Relations with other organizations and bodies

76. During the period under review, on 31 August 2017, a memorandum of understanding on cooperation was concluded between the Tribunal and the GEOMAR

[1] The text of the statement is available on the Tribunal's website, http://www.itlos.org or http://www.tidm.org.

Helmholtz Centre for Ocean Research, Kiel, Germany. The memorandum of understanding provides for close cooperation between the two institutions and for the regular exchange of information on matters of mutual interest, in particular for the transmission of information by GEOMAR to the Tribunal on technical matters in the field of marine sciences.

XII. Headquarters Agreement

77. The Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany was signed on 14 December 2004. In addition, the Agreement between the Tribunal and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg was concluded on 18 October 2000.

78. During the period under review the Registry, in cooperation with the Federal Building Authorities of Germany, made several improvements to the Tribunal's equipment and systems, in particular, the replacement of the control system for the grounds protection system.

XIII. Finances

A. Budgetary matters

1. Budget of the Tribunal for 2019–2020

79. During the forty-fourth session of the Tribunal, the Committee on Budget and Finance gave preliminary consideration to the budget of the Tribunal for the financial period 2019–2020 on the basis of draft proposals submitted by the Registrar.

2. Report on budgetary matters for the financial period 2015–2016

80. At its forty-third session, the Tribunal considered the report presented by the Registrar on budgetary matters for the financial period 2015–2016. The report, which was submitted to the twenty-seventh Meeting of States Parties for its consideration (SPLOS/306), included the following: the performance report for 2015–2016; and a report on action taken pursuant to the Financial Regulations of the Tribunal (the surrender of cash surplus from the financial period 2013–2014, the Tribunal's investments, and the trust funds established pursuant to regulation 6.5 of the Financial Regulations of the Tribunal).

3. Cash flow situation

81. At its forty-third and forty-fourth sessions, the Tribunal took note of the information presented by the Registrar concerning the cash flow situation of the Tribunal.

B. Status of contributions

82. As at 31 December 2017, 119 States parties had made contributions to the 2017–2018 budget, totalling €12,733,885, while 49 States parties had not made any payments with respect to their assessed contributions for 2017–2018. The balance of unpaid contributions with respect to 2017 was €896,255. An amount of €3,070,191 was credited against the assessed contributions for 2018.

83. Furthermore, assessed contributions amounting to €658,964 in respect of the Tribunal's budgets for the financial periods 1996–1997 to 2015–2016 were still pending as at 31 December 2017.

84. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to €1,555,188 as at 31 December 2017. In July 2017, the Registrar sent the States parties notes verbales concerning their assessed contributions, for 2018, to the Tribunal's 2017–2018 budget, and containing information about outstanding contributions to the previous budgets. In December 2017, notes verbales were sent to the States parties concerned, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Financial Regulations and Rules

85. The Financial Regulations of the Tribunal, adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004.[4]

86. Pursuant to financial regulation 10.1(a), the Tribunal, at its seventeenth session, approved the Financial Rules, which were submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal, which, according to rule 114.1, became effective on 1 January 2005.[5]

87. Pursuant to financial regulation 12.1, the twenty-sixth Meeting of States Parties appointed BDO as the Tribunal's auditor for the financial periods 2017–2018 and 2019–2020.

D. Report of the auditor for 2015–2016

88. The results of the audit for the financial period 2015–2016 were presented by the Registrar at the forty-third session of the Tribunal. The Committee on Budget and Finance noted the auditor's opinion that the financial statements for the financial period 2015–2016 had been prepared, in all material respects, in accordance with the Financial Regulations and Rules of the Tribunal. The Tribunal took note of the audit report for 2015–2016 (SPLOS/305) and requested that the report be submitted to the twenty-seventh Meeting of States Parties. The twenty-seventh Meeting of States Parties took note with satisfaction of the report of the external auditor (SPLOS/316, para. 32).

E. Trust funds and donations

89. On the basis of resolution 55/7 on "Oceans and the law of the sea" adopted by the General Assembly on 30 October 2000, a voluntary trust fund has been established by the Secretary-General to assist States in connection with disputes to be settled by the Tribunal. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, the financial statements of the trust fund showed a balance of $155,738 as at 31 December 2017.

90. In addition, the Registrar has established the following trust funds pursuant to regulation 6.5 of the Financial Regulations of the Tribunal: the Nippon Foundation

[4] Financial Regulations, regulation 14.1.

[5] The Financial Regulations and Rules of the Tribunal are contained in document SPLOS/120.

trust fund, the trust fund for the Law of the Sea, the China Institute of International Studies trust fund and the twentieth anniversary trust fund.

91. The Nippon Foundation trust fund was established in 2007, further to a grant provided that year by the Nippon Foundation to fund the participation of fellows in a capacity-building and training programme on dispute settlement under the Convention. For the period 2007–2017, the Nippon Foundation made 11 contributions to the grant. As at 31 December 2017, the balance of total reserves stood at €361,235.

92. In 2010, pursuant to a decision of the Tribunal at its twenty-eighth session, the trust fund for the Law of the Sea was established. Its terms of reference were adopted by the Tribunal and submitted for consideration to the twentieth Meeting of States Parties. The trust fund is intended to promote human resources development in developing countries in the law of the sea and maritime affairs in general. Contributions made to the trust fund are used to provide applicants from developing countries with financial assistance to enable them to participate in the Tribunal's internship programme and the summer academy. States, intergovernmental organizations and agencies, national institutions, non-governmental organizations and international financial institutions, as well as natural and juridical persons, are invited to make voluntary financial or other contributions to the trust fund. For the period 2010–2016, contributions to the trust fund were made by the Korea Maritime Institute in the amount of €141,000 and by Korwind in the amount of €25,000. In 2017, the Korea Maritime Institute made three further contributions in the amount of €4,482, €15,000 and €25,000 to be used to support the internship programme and the regional workshop held in San José. In December 2017, the Government of China made a contribution in the amount of €150,000 to provide financial assistance to applicants from developing countries for their participation in the internship programme and the summer academy. As at 31 December 2017, the balance of total reserves stood at €197,876.

93. In 2012, the China Institute of International Studies provided a grant, in the amount of €100,000, to finance training activities of the Tribunal, including regional workshops, and to provide grants to participants from developing countries in the internship programme and the summer academy. As at 31 December 2017, the balance of total reserves stood at €15,374.

94. In 2015, at its fortieth session, the Tribunal approved the terms of reference for the twentieth anniversary trust fund. In total, four contributions were received: two contributions of €25,000 each from the Korea Maritime Institute in May 2016 and July 2016; a contribution of €109,443 from the Government of Japan in July 2016; and a contribution of €7,000 from the Government of Germany in December 2016. The funds of the twentieth anniversary trust fund were fully utilized and the bank account opened for it was closed in 2017. The final report of the twentieth anniversary trust fund will be included in the 2017–2018 financial statements of the Tribunal.

XIV. Administrative matters

95. During the period under review, the committees of the Tribunal considered various administrative matters within the scope of their activities. Reference to some of the matters considered is made in the subsequent paragraphs.

A. Staff Regulations and Staff Rules

96. During the period under review, the Tribunal approved the recommendations of the Committee on Staff and Administration regarding amendments to the Staff

Regulations of the Tribunal to be made as a result of unifying the salary scale for staff in the Professional and higher categories as approved by the General Assembly. Amendments to the Staff Regulations concerning the salary scale for staff in the Professional and higher categories were also approved, in order to ensure compatibility between the Staff Regulations of the Tribunal and the United Nations common system of salaries, allowances and benefits, pursuant to regulation 12.6 of the Staff Regulations.

97. During the period under review, in the light of the recommendation of the Committee on Staff and Administration, the Tribunal took note of the amendments to the Staff Rules of the Tribunal made as a result of the adoption by the United Nations of the new compensation package. Pursuant to regulations 12.2, 12.3 and 12.4 of the Staff Regulations, the amendments to the Staff Rules which had been provisionally applied entered into full force and effect on 1 January 2018.

B. Staff recruitment

98. In 2017, the Tribunal recruited staff members for the posts of Deputy Registrar (D-2) and Administrative Assistant (Finance) (G-6).

99. At the end of 2017, recruitment was in progress with respect to the posts of Senior Legal Officer/Head of Legal Office (P-5), Legal Officer (P-3) and Personal Assistant (President) (G-7).

100. A list of the staff members of the Registry as at 31 December 2017 is contained in annex I to the present report.

101. Temporary personnel were recruited to assist the Tribunal during its forty-third and forty-fourth sessions and during the hearings and deliberations in case No. 23.

102. The staff of the Registry consists of 38 staff members, of whom 18 are in the Professional and higher categories. The recruitment of staff members in the Professional category, excluding language staff, is subject to the principle of equitable geographical distribution, in accordance with regulation 4.2 of the Staff Regulations. That regulation provides:

> The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity for securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Taking into account the small number of staff in the Registry of the Tribunal, a flexible regional approach has been followed in this regard.

103. The Tribunal has taken steps to ensure that vacancy announcements are disseminated in such a way as to recruit staff on as wide a geographical basis as possible. Information on vacancies is transmitted to the embassies in Berlin of the States parties to the Convention, and to the permanent missions in New York. The information is also posted on the Tribunal's website and published in the press.

104. Although the principle of geographical distribution does not apply to the recruitment of General Service staff, the Tribunal has also made efforts to recruit General Service staff on as wide a geographical basis as possible.

C. Staff Pension Committee

105. Further to the proposal of the Tribunal, the sixteenth Meeting of States Parties decided that a Staff Pension Committee should be established with the following

composition: (a) one member and one alternate member to be chosen by the Meeting; (b) one member and one alternate member to be appointed by the Registrar; and (c) one member and one alternate member to be elected by the staff. The term of office of members and alternates is three years.

106. The twenty-sixth Meeting of States Parties adopted a decision extending the nominations of Indonesia as member and Canada as alternate member of the Committee for a three-year term of office starting on 1 July 2016 (SPLOS/302).

D. Language classes at the Tribunal

107. English and French classes for Registry staff members were held in 2017.

XV. Buildings and electronic systems

A. Building arrangements and new requirements

108. During the forty-third and forty-forth sessions, the Registrar presented reports on building arrangements and the use of the Tribunal's premises. The reports were reviewed by the Committee on Buildings and Electronic Systems with a view to improving the working conditions of the Tribunal.

B. Use of the premises and public access

109. The following events took place on the premises of the Tribunal during 2017:

(a) Symposium on the theme "ITLOS at 20: looking into the future", 18 March 2017;

(b) International Foundation for the Law of the Sea, summer academy, from 23 July to 18 August 2017.

110. In addition, some 2,500 visitors took part in organized tours of the premises of the Tribunal in 2017.

XVI. Library facilities and archives

111. During the forty-third and forty-forth sessions, the Registrar reported on several matters pertaining to the Library, including the collections and an integrated library management system. He also presented reports on the archive collections and databases.

112. A list of donors to the Library is contained in annex II to the present report.

XVII. Publications

113. The status of the Tribunal's publications was reviewed by the Committee on Library, Archives and Publications during the forty-third and forty-forth sessions of the Tribunal.

114. During the period under review, the following volumes were published:

(a) *ITLOS Reports of Judgments, Advisory Opinions and Orders 2016, Vol. 16*;

(b) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2015, Vol. 23*;

(c) *ITLOS Pleadings, Minutes of Public Sittings and Documents 2015, Vol. 24*.

XVIII. Public relations

115. During the period under review, the Committee on Public Relations gave consideration to a set of measures to provide information on the work of the Tribunal, including the preparation of a promotional film on the Tribunal, dissemination of information on the Tribunal, and participation by representatives of the Tribunal in international legal meetings.

116. The Tribunal publicized its work by means of its website, press releases and briefings by the Registry, and through the distribution of its judgments, orders and publications.

117. The website can be accessed at the following addresses: http://www.itlos.org (English) and http://www.tidm.org (French). The texts of judgments and orders of the Tribunal, and verbatim records of hearings, are available on the website, together with other information about the Tribunal.

118. In 2017, judges and Registry staff members also delivered lectures and published papers on the work of the Tribunal.

XIX. Capacity-building activities

119. A number of capacity-building activities relating to the work of the Tribunal continued to be conducted in 2017.

A. Internship programme

120. The internship programme of the Tribunal, which was established in 1997, is designed to give participants the opportunity to gain an understanding of the work and functions of the Tribunal. Funding has been available for applicants from developing countries to assist them in covering the costs incurred for travel to Hamburg and for participation in the programme. The trust fund for the Law of the Sea is currently used to provide financial assistance to interns.

121. As at the end of 2017, a total of 337 interns from 95 States had participated in the programme, with 111 interns benefiting from funding.

122. During 2017, 16 persons from 15 States (Angola, Argentina, Belgium, Brazil, China, France, Germany, India, Morocco, Nigeria, Serbia, South Africa, Tunisia, Ukraine and United States of America) served as interns at the Tribunal.

123. Information on the programme and an online application form are available at the Tribunal's website.

B. Capacity-building and training programme

124. In 2017, for the eleventh time, a capacity-building and training programme on dispute settlement under the Convention was conducted with the support of the Nippon Foundation. The Nippon Foundation Grant was set up in 2007 to provide capacity-building and training to fellows and to assist them in covering the costs incurred by participating in the programme. During the programme, participants attend lectures on topical issues related to the law of the sea and maritime law and training courses on negotiation and delimitation. They also visit institutions working in the fields of law of the sea, maritime law and dispute settlement. At the same time,

participants carry out individual research on selected topics. Information about the programme can be obtained from the Registry or from the Tribunal's website.

125. Nationals of Cyprus, the Democratic Republic of Congo, Egypt, Indonesia, the Russian Federation, Spain, and Trinidad and Tobago are participating in the 2017-2018 programme (July 2017-March 2018).

C. Regional workshops

126. The Tribunal has organized a series of workshops on the settlement of disputes related to the law of the sea in different regions of the world. The purpose of the workshops is to provide government experts working on maritime and law of the sea matters with insight into the procedures for dispute settlement contained in part XV of the Convention, with special emphasis on the jurisdiction of the Tribunal and the procedural rules applicable to cases before the Tribunal.

127. During 2017, a workshop organized by the Tribunal in cooperation with the Government of Costa Rica and with the financial support of the Korea Maritime Institute, was held in San José on 5 and 6 June 2017. The theme of the workshop was "The role of the International Tribunal for the Law of the Sea in the settlement of disputes relating to the law of the sea in the Central American and Caribbean regions". The workshop was attended by representatives of 12 States from the region: Antigua and Barbuda, Bahamas, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Panama, Saint Lucia, and Saint Vincent and the Grenadines.

D. Summer academy

128. The International Foundation for the Law of the Sea held the eleventh summer academy at the Tribunal's premises from 23 July to 18 August 2017, on the theme "Promoting ocean governance and peaceful settlement of disputes". A total of 36 participants from 29 countries attended lectures on issues relating to the law of the sea and maritime law. The lectures were given by judges of the Tribunal and the Registrar, as well as by experts, practitioners, representatives of international organizations and scientists.

Annex I

Information on staff (2017)

Professional and higher categories

Name	*Title*	*Country of nationality*	*Level of post*	*Level of incumbent*
Gautier, Philippe	Registrar	Belgium	ASG	ASG
Hinrichs, Ximena	Deputy Registrar	Chile	D-2	D-2
Vacant	Senior Legal Officer/Head of Legal Office		P-5	
Guy, Pauline	Senior Translator/Reviser — Head of Linguistic Services	United Kingdom	P-5	P-5
Savadogo, Louis	Legal Officer	Burkina Faso	P-4	P-4
Mizerska-Dyba, Elzbieta	Head of Library and Archives	Poland	P-4	P-4
Gaba Kpayedo, Kafui	Head of Personnel, Building and Security	Togo	P-4	P-4
Füracker, Matthias	Legal Officer	Germany	P-4	P-4
Gaultier, Leonard	Translator/Reviser (French)	France	P-4	P-4
Ritter, Roman	Head of Budget and Finance	Germany	P-4	P-3
Gbadoe, Alfred	Information Technology Officer	Germany	P-3	P-3
Rostan, Jean-Luc	Translator (French)	France	P-3	P-3
Vacant	Legal Officer		P-3	
*Ritter, Julia	Press Officer	United Kingdom	P-2	P-2
**Jimenez Sanchez, Rosa	Associate Archivist	Spain	P-2	P-2
Buergers-Vereshchak, Svitlana	Associate Administrative Officer (Contributions/Budget)	Ukraine	P-2	P-2
Vorbeck, Antje	Associate Administrative Officer (Personnel)	Germany	P-2	P-2
Burke, Naomi	Associate Legal Officer	Ireland	P-2	P-2

Total posts: 18

* The post of Press Officer is occupied 50 per cent by the incumbent of the post, Ms. Ritter. The remaining 50 per cent is currently occupied by Benjamin Benirschke on the basis of a temporary appointment.

** Ms. Jimenez Sanchez was on special leave until 13 July 2017.

General Service

Name	Title	Country of nationality	Level of post	Level of encumbrance
Bothe, Andreas	Building Coordinator	Germany	G-7	G-7
Egert, Anke	Publications/Personal Assistant (Registrar)	Germany	G-7	G-7
Winkelmann, Jacqueline	Administrative Assistant (Procurement)	Germany	G-7	G-7
Mba, Patrice	Information Systems Assistant	Cameroon	G-7	G-7
Albiez, Berit	Linguistic Assistant/Judiciary Support	Germany	G-7	G-7
Vacant	Personal Assistant (President)		G-7	
Naegler, Thorsten	Finance Assistant	Germany	G-6	G-6
Karanja, Elizabeth	Administrative Assistant	Kenya	G-6	G-6
Koch, Béatrice	Legal Assistant	France	G-6	G-6
Bartlett, Emma	Personnel Assistant	United Kingdom	G-6	G-6
Heim, Svenja	Library Assistant	Germany	G-6	G-6
Rakotomalala, Brigitte	Linguistic Assistant/Judiciary Support	France	G-6	G-6
Gomez Ramirez, Juan	Administrative Assistant (Finance)	Colombia	G-6	G-6
Fusiek, Christoph	Finance Assistant (Accounts Payable)	Germany	G-5	G-5
Marzahn, Inga	Administrative Assistant	Germany	G-5	G-5
Fislage, Sylvie	Personal Assistant (Deputy Registrar)	France	G-5	G-4
Banerjee, Mita	Administrative Assistant	Germany	G-5	G-4
Duddek, Sven	Senior Security Officer/Building Superintendent	Germany	G-4	G-4
Aziamble, Papagne	Administrative Support/Driver	Togo	G-4	G-4
Ntinugwa, Chuks	Security Officer/Driver	Germany	G-3	G-3

Total posts: 20

Annex II

List of donors to the Library of the International Tribunal for the Law of the Sea as at 31 December 2017

Bundesamt für Seeschifffahrt und Hydrographie, Hamburg, Germany

Commission for the Conservation of Antarctic Marine Living Resources, Hobart, Australia

Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, New York

Matusalem Gonçalves Pimenta, Advogados Associados, Rio de Janeiro, Brazil

International Seabed Authority, Kingston

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

C. Raj Kumar, Vice Chancellor, O P Jindal Global University, National Capital Region of Delhi, India

Seokwoo Lee, Inha University Law School, Incheon, Republic of Korea

Mare, Die Zeitschrift der Meere, Hamburg, Germany

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Northwest Atlantic Fisheries Organization, Dartmouth, Canada

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Germany

World Trade Organization, Geneva

United Nations Convention on the Law of the Sea SPLOS/318

Meeting of States Parties

Distr.: General
26 March 2018

Original: English

Twenty-eighth Meeting
New York, 11–14 June 2018

Report on budgetary matters for the financial periods 2015–2016 and 2017–2018

Presented by the Registrar of the International Tribunal for the Law of the Sea

I. Cash surplus for the financial period 2015–2016

A. Excess of income over expenditure

1. In June 2017, the twenty-seventh Meeting of States Parties took note of the report of the external auditor for the financial period 2015–2016 (SPLOS/305), which had been submitted to it by the International Tribunal for the Law of the Sea (SPLOS/316, para. 32). According to the audit report, the final excess of income over expenditure as at 31 December 2016 amounted to €192,840.

2. As explained in the report on budgetary matters for the financial period 2015–2016, the total expenditure for that period stood at €18,662,719, representing 99.18 per cent of the total appropriation (€18,817,600) (SPLOS/306, para. 2). This performance may be explained by the optimal use of resources in a period of increased judicial workload. In this respect, it may be noted that the appropriations approved for the financial period 2015–2016 were used to cover expenses relating to judicial work of the Tribunal in the following cases:

(a) Case No. 23 (*Dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)*)

A request for the prescription of provisional measures was submitted to a special chamber of the Tribunal on 27 February 2015. The special chamber delivered its order on 25 April 2015;

(b) Case No. 24 (The "Enrica Lexie" Incident (Italy v. India), provisional measures)

The case was submitted to the Tribunal on 21 July 2015 and the Tribunal issued its order on provisional measures on 24 August 2015;

(c) Case No. 25 (*The M/V "Norstar" Case (Panama v. Italy)*)

18-04728 (E) 060418

Please recycle

The case was submitted to the Tribunal on 17 December 2015. On 10 March 2016, Italy filed preliminary objections. The public hearing on the preliminary objections was held from 20 to 22 September 2016, and the Tribunal delivered its judgment on the preliminary objections on 4 November 2016.

B. Provisional cash surplus

3. Pursuant to regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the provisional cash surplus is determined by establishing the balance between credits (assessed contributions actually received, miscellaneous income received and additional appropriations) and charges (disbursements against appropriations and provisions for unliquidated obligations). For the financial period 2015–2016, the excess of income over expenditure amounts to €192,840 and is calculated as follows (in euros):

Credit	18 855 559
Charges	-18 662 719
Excess of income over expenditure	**192 840**

4. Pursuant to regulation 4.3 of the Financial Regulations and Rules of the Tribunal, the amount of unpaid contributions should be deducted from this balance. On that basis, the provisional cash surplus for the financial period 2015–2016 was determined to be -€563,423. This amount was based on the report of the external auditor for the financial period 2015–2016, with financial statements of the Tribunal as at 31 December 2016 (SPLOS/305), and is calculated as follows (in euros):

Credit	18 855 559
Charges	-18 662 719
Cancellation of the 2013–2014 obligations surrendered with the 2013–2014 cash surplus	-41 977
Unpaid contributions	-714 286
Provisional cash surplus	**-563 423**

C. Cash surplus

5. Under regulation 4.4 of the Financial Regulations and Rules of the Tribunal, the cash surplus is determined by crediting to the provisional cash surplus any arrears of contributions from prior periods received during the financial period and any savings from the provisions made for unliquidated obligations for the financial period.

6. The cash surplus for the financial period 2015–2016 stood at -€183,676 as at 31 December 2017 and is calculated as follows:

Provisional cash surplus -€563,423 + arrears of contributions from prior periods received in 2017 €352,233 + savings from the provisions made from unliquidated obligations €27,514 = cash surplus -€183,676.

7. The cash surplus, as reflected in paragraph 6, was reviewed by the auditor on 6 February 2018. The auditor certified that the cash surplus for the financial period 2015–2016 as at 31 December 2017 amounted to -€183,676 (see annex I).

D. Surrender of cash surplus

8. Under regulation 4.5 of the Financial Regulations and Rules of the Tribunal, the cash surplus will be surrendered as follows:

(a) *Apportionment of cash surplus*

The cash surplus, as determined above, will be apportioned among the States parties in proportion to their contributions as determined for the financial period 2015–2016, to which the surplus relates.

(b) *Surrender of cash surplus*

The cash surplus for the financial period 2015–2016 thus apportioned to the States parties will:

(i) Be surrendered to the States parties, provided that their contribution for the financial period 2015–2016 has been paid in full;

(ii) Be applied to liquidate first, in whole or in part, any arrears in contributions.

(c) *Retention of cash surplus apportioned but not surrendered*

Any cash surplus apportioned to the States parties but not surrendered owing to the non-payment or partial payment of their contributions for the financial period in question will be retained by the Registrar until such time as the contribution for that financial period is paid in full.

9. Since the cash surplus for the financial period 2015–2016 is negative, no funds will be surrendered to the States parties.

II. Provisional performance report for 2017

10. In June 2016, the twenty-sixth Meeting of States Parties approved a budgetary amount of €21,119,900 for the financial period 2017–2018 (SPLOS/301, para. 1). This amount included a provision of €3,406,800 under "Case-related costs" to cover the costs relating to the consideration of Case No. 23 and Case No. 25 and to enable the Tribunal to deal with two urgent proceedings in 2017–2018.

11. Annex II contains the performance report for the year 2017. The performance report is provisional since it concerns the first year of the budget for the biennium 2017–2018.

12. As shown in annex II, the total expenditure for 2017 stands provisionally at €8,967,272, representing 86.08 per cent of the appropriations in the amount of €10,416,800 allocated for that year.

Case-related costs

13. A provision in the amount of €3,406,800 was approved under "Case-related costs" for the 2017–2018 budget. Of that amount, €1,661,400 was allocated for 2017 to deal with part of Case No. 23, a case dealt with by a special chamber of the Tribunal, as well as one urgent proceeding. In 2017, the special chamber completed its considerations, and delivered its judgment on 23 September 2017. No urgent proceeding was dealt with in 2017. As a result, €713,055 was used by the end of 2017, which corresponds to 42.92 per cent of the provision.

Recurrent expenditure

14. Under section 7, "Operating expenditures", the budget line "Communications" was overspent with respect to the provision allocated to 2017. This is due to the installation of a firewall for protecting the Tribunal's email and online communications system. The level of expenditure in 2017 will be taken into account in the use of this budget line in 2018 to avoid any overexpenditure for the biennium.

III. Report on action taken pursuant to the Financial Regulations and Rules of the Tribunal

A. Investment of funds of the Tribunal

15. Regulation 9 of the Financial Regulations and Rules of the Tribunal stipulates the following:

> 9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.
>
> 9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

16. During 2017, the Tribunal's funds were kept at JP Morgan Chase Bank and Deutsche Bank. Short-term investments in euros, which are investments made for less than 12 months according to rule 109.1 of the Financial Regulations and Rules of the Tribunal, were made with Deutsche Bank. The funds yielded an interest of €865 during 2017, which has been credited to miscellaneous income, in compliance with regulation 9.2.

B. Trust fund for the law of the sea

17. At its twenty-eighth session, the Tribunal approved the Registrar's proposal to establish a trust fund for the law of the sea, in accordance with the Financial Regulations and Rules of the Tribunal, and the Registrar subsequently established a new trust fund for the law of the sea account with Deutsche Bank in Hamburg, Germany. The trust fund is intended to promote the advancement of human resources in developing countries in the areas of the law of the sea and maritime affairs in general. During the years 2010–2016, contributions were received from Korwind, a Hamburg-based Korean company working in the field of renewable energy (€25,000), and from the Korea Maritime Institute (€141,000). In 2017, the trust fund received three contributions from the Korea Maritime Institute, in the amount of €4,482, €15,000 and €25,000, and a contribution in the amount of €150,000 from the Government of China. Contributions are used to offer financial assistance to applicants from developing countries for participation in the Tribunal's internship programme and the summer academy of the International Foundation for the Law of the Sea. The trust fund was also used to finance a regional workshop held in San José in June 2017. As at 31 December 2017, the performance of the trust fund was as follows (in euros):

Contributions	194 482
Expenditure on participants and authorized activity	-28 598
Gain on exchange	77
Total	**165 961**
Reserves from prior periods	31 915
Available balance	**197 876**

C. Nippon Foundation trust fund

18. In March 2007, the Tribunal and the Nippon Foundation signed the Nippon Foundation Grant Agreement. Pursuant to the Agreement, the Nippon Foundation agreed to contribute €200,000 to the Nippon Foundation-International Tribunal for the Law of the Sea capacity-building and training programme on dispute settlement under the United Nations Convention on the Law of the Sea.

19. In accordance with regulation 6.5 of the Financial Regulations and Rules of the Tribunal, a trust fund was subsequently established and a special bank account, named "Nippon Foundation Grant", was set up in euros with Deutsche Bank. The purpose of the grant is to finance the expenses of participants from developing countries in the aforementioned programme.

20. Subsequent annual contributions totalling €2,010,000 were made by the Nippon Foundation during the period 2008–2016. In March 2017, a contribution of €230,000 for the 2017–2018 programme was received. The performance of the Nippon Foundation Grant as at 31 December 2017, which is to be reported to the Meeting of States Parties in accordance with regulation 6.5, was as follows (in euros):

Contribution	230 000
Expenditure on participants and authorized activity	-193 583
Accounts receivable and prepaid expenses	-24 727
Loss on exchange	-131
Non-refundable tax	-774
Reserves from prior periods	350 450
Available balance	**361 235**

D. China Institute of International Studies trust fund

21. Following the signing of a memorandum of understanding between the Tribunal and the China Institute of International Studies on 3 May 2012, a trust fund — designated as the China Institute of International Studies Grant — was set up to support the Tribunal's internship programme, the summer academy of the International Foundation for the Law of the Sea and other projects, including regional workshops. A contribution from the Institute to the Grant in the amount of €100,000 was received on 20 June 2012 and was used to support the internship programme and the summer academy. As at 31 December 2017, the balance of the Grant stood at €15,374. This amount will be used to finance a workshop in Cabo Verde in May 2018.

E. Twentieth anniversary trust fund

22. In October 2015, at its fortieth session, the Tribunal decided to establish a trust fund to finance the events and activities that it organized to celebrate its twentieth anniversary and disseminate information on its role in the settlement of disputes relating to the law of the sea. In total, four contributions were received. Two contributions of €25,000 each were received from the Korea Maritime Institute in May 2016 and July 2016, respectively, a contribution of €109,443 was received from the Government of Japan in July 2016, and a contribution of €7,000 was received from the Government of Germany in December 2016. In addition to the 2016 events, an academic event to commemorate the anniversary, devoted to the role of the Tribunal in addressing new challenges in the international law of the sea, was held in Hamburg on 18 March 2017. The funds of the twentieth anniversary trust fund were fully utilized and the bank account opened for the trust fund was closed. The final report of the twentieth anniversary trust fund will be included in the 2017–2018 financial statements of the Tribunal.

Annex I

Report of the independent auditor

To the International Tribunal for the Law of the Sea,

We have audited the accompanying cash surplus, including the corresponding information (hereinafter referred to as "cash surplus") of the International Tribunal for the Law of the Sea, Hamburg, Germany, for the biennial financial period 2015–2016, ending on 31 December 2016 (see enclosure).

Management's responsibility for the financial statements

The management of the International Tribunal for the Law of the Sea, Hamburg, Germany (hereinafter referred to as "the Tribunal"), is responsible for the preparation of the cash surplus in accordance with the Financial Regulations and Rules of the Tribunal. The management is also responsible for such internal control as management determines necessary to enable the preparation of the cash surplus that is free from material misstatements, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on the cash surplus. We conducted our audit of the cash surplus in accordance the generally accepted standards for the audit of financial statements promulgated by the Institut der Wirtschaftsprüfer in Deutschland (Institute of Public Auditors in Germany), Dusseldorf, Germany. Those standards require that we comply with professional ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the cash surplus is free from material misstatement.

The audit involves the performance of procedures to obtain audit evidence about the amounts and the corresponding information in the cash surplus. The procedures selected depend on the auditor's judgment. This includes the assessment of the risk of material misstatement of the cash surplus, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Tribunal's preparation of the cash surplus in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion of the effectiveness of the Tribunal's internal control. The audit also includes an evaluation of the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by management, as well as an evaluation of the overall presentation of the cash surplus.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, based on the findings of our audit, the cash surplus of the International Tribunal of the Law of the Sea, Hamburg, Germany, for the biennial financial period 2015–2016, ending on 31 December 2016, and the corresponding information are prepared, in all material respects, in accordance with the Financial Regulations and Rules of the Tribunal.

Basis of accounting and restriction on use

Without modifying our opinion, we draw attention to the Financial Regulations and Rules of the Tribunal, which describe the basis of accounting. The cash surplus

is prepared to comply with the financial regulations referred to above. As a result, the cash surplus may not be suitable for another purpose.

Restriction of distribution and limitation of liability

Our report is intended solely for the Tribunal and the Meeting of States Parties at the United Nations. Our report may not be used for other purposes or distributed to other parties without our prior consent.

We have prepared this report exclusively on the basis of the engagement by the Tribunal. The services we have performed for the Tribunal in this engagement are governed by the BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions as well as the General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 January 2017. In case of contradictory or ambiguous statements of the individual regulations, the following order of priority shall apply: (1) the engagement letter; (2) the Special Terms and Conditions; and (3) the General Engagement Terms.

(*Signed*) Ralf **Wißmann**
German Public Auditor

(*Signed*) Andreas **Prill**
German Public Auditor

Enclosures

Cash surplus for the financial period 2015–2016 of the International Tribunal for the Law of the Sea, as at 31 December 2017

BDO AG Wirtschaftsprüfungsgesellschaft Special Terms and Conditions[1]

General Engagement Terms for Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften (German Public Auditors and Public Audit Firms) dated 1 January 2017[2]

[1] Note by the secretariat of the Meeting of States Parties: not reproduced. A copy of the Special Terms and Conditions (2018 version) is available in English from www.bdo.de/en-gb/insights/publishments/bdo/special-terms-and-conditions-of-bdo-ag-wirtschafts.

[2] Note by the secretariat of the Meeting of States Parties: not reproduced. A copy of the Special Terms and Conditions (2018 version) is available in English from www.bdo.de/en-gb/einblicke/weitere-veroffentlichungen/bdo/general-engagement-terms-of-the-institute-of-certi

Enclosure

International Tribunal for the Law of the Sea: cash surplus for the financial period 2015–2016

Provisional cash surplus as at 31 December 2016

(Euros)

Final excess of income over expenditure 2015–2016	192 840
Cancellation of the 2013–2014 obligations surrendered with 2013–2014 cash surplus	-41 977
Contributions receivable from States parties with respect to 2015–2016	-714 286
Provisional cash surplus 2015–2016	**-563 423**

Cash surplus as at 31 December 2017

(Euros)

Prior periods' contributions received in 2017	352 233
Savings from 2015–2016 obligations	27 514
Cash surplus 2015–2016	**-183 676**

Annex II

Provisional performance report for 2017 as at 31 December

(Euros)

Part Section	Objects of expenditure	2017-2018 approved budget	2017	2017 expenditure (as at 31 December 2017)	2017 unliquidated obligations (as at 31 December 2017)	2017 total expenditure (as at 31 December 2017)	Balance	Total expenditure/ approved budget (percentage)
A	**Recurrent expenditure**							
1	**Judges**	**4 393 000**	**2 254 750**	**2 129 284**	**49**	**2 129 333**	**125 417**	**94.44**
	Annual allowances	3 124 400	1 562 200	1 522 531	0	1 522 531	39 669	97.46
	Special allowances	851 400	425 700	382 183	0	382 183	43 517	89.78
	Travel to sessions	276 700	138 350	121 542	0	121 542	16 808	87.85
	Common costs	140 500	128 500	103 028	49	103 077	25 423	80.22
2	**Judges' pension scheme**	**1 857 300**	**772 800**	**651 586**	**0**	**651 586**	**121 214**	**94.44**
3	**Staff costs**	**7 749 600**	**3 874 800**	**3 709 774**	**12 251**	**3 722 025**	**152 775**	**96.06**
	Established posts	5 088 000	2 544 000	2 489 352	0	2 489 352	54 648	97.85
	Common staff costs	2 249 800	1 124 900	1 080 631	1 545	1 082 176	42 724	96.20
	Overtime	25 000	12 500	11 260	0	11 260	1 240	90.08
	Tempotary assistance for meetings	205 500	102 750	78 724	0	78 724	24 026	76.62
	General temporary assistance	107 900	53 950	21 535	5 810	27 345	26 605	50.69
	Training	73 400	36 700	28 272	4 896	33 168	3 532	90.38
4	**Representation allowance**	**13 600**	**6 800**	**6 766**	**0**	**6 766**	**34**	**99.50**
5	**Official travel**	**181 600**	**90 800**	**87 382**	**0**	**87 382**	**3 418**	**96.24**
6	**Hospitality**	**14 400**	**7 200**	**5 706**	**0**	**5 706**	**1 494**	**79.25**
7	**Operating expenditures**	**3 022 400**	**1 507 650**	**1 309 395**	**112 426**	**1 421 821**	**85 829**	**94.31**
	Maintenance of premises (including security)	2 289 900	1 141 400	998 835	86 784	1 085 619	55 781	95.11
	Rental and maintenance of equipment	358 200	179 100	156 602	18 770	175 372	3 728	97.92
	Communications	190 600	95 300	105 882	4 214	110 096	-14 796	115.53
	Miscellaneous services and charges (including bank charges)	41 300	20 650	14 093	0	14 093	6 557	68.25
	Supplies and materials	123 300	61 650	33 983	2 659	36 642	25 008	59.43
	Special services (external audit)	19 100	9 550	0	0	0	9 550	0.00

Part	Section	Object of expenditure	2017/2018 approved budget	2017	2017 expenditure (as at 31 December 2017)	2017 unliquidated obligations (as at 31 December 2017)	2017 total expenditure (as at 31 December 2017)	Balance	Total expenditure/ approved budget (percentage)
8		**Library and related costs**	**325 600**	**162 800**	**156 988**	**5 743**	**162 731**	**69**	**99.96**
		Library — procurement of books and publications	247 000	123 500	117 747	5 743	123 490	10	99.99
		External printing and binding	78 600	39 300	39 241	0	39 241	59	99.85
B		**Non-recurrent expenditure**							
9		**Furniture and equipment**							
		Purchase of equipment	155 600	77 800	62 900	3 967	66 867	10 933	85.95
C		**Case-related costs**	**3 406 800**	**1 661 400**	**713 055**	**0**	**713 055**	**948 345**	**42.92**
11		**Judges**	**2 221 000**	**973 500**	**280 407**	**0**	**280 407**	**693 093**	**28.80**
		Special allowances	1 666 200	648 900	170 739	0	170 739	478 161	26.31
		Compensation to judges ad hoc	306 100	183 200	92 275	0	92 275	90 925	50.37
		Travel to meetings (including judges ad hoc)	248 700	141 400	17 393	0	17 393	124 007	12.30
12		**Staff costs**	**1 185 800**	**687 900**	**432 648**	**0**	**432 648**	**255 252**	**62.89**
		Temporary assistance for meetings	1 140 800	665 400	428 688	0	428 688	236 712	64.43
		Overtime	5 000	22 500	3 960	0	3 960	18 540	17.60
		Total	**21 119 900**	**10 416 800**	**8 832 836**	**134 436**	**8 967 272**	**1 449 528**	**86.08**

United Nations Convention on the Law of the Sea SPLOS/319

Meeting of States Parties

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Twenty-eighth Meeting
New York, 11–14 June 2018
Item 10 (a) of the provisional agenda*
Commission on the Limits of the Continental Shelf: information reported by the Chair of the Commission

Letter dated 2 April 2018 from the Chair of the Commission on the Limits of the Continental Shelf addressed to the President of the twenty-eighth Meeting of States Parties

Introduction

1. I wish to inform you, in my capacity as Chair of the Commission on the Limits of the Continental Shelf, about the progress of work of the Commission since the twenty-seventh Meeting of States Parties to the United Nations Convention on the Law of the Sea, held in June 2017.

2. The Commission held its forty-fourth, forty-fifth and forty-sixth sessions at United Nations Headquarters from 24 July to 8 September 2017, from 16 October to 1 December 2017 and from 29 January to 16 March 2018, respectively. Documents CLCS/100, CLCS/101 and CLCS/103 contain a more detailed account of the progress in the work of the Commission during those sessions, in particular with regard to the submissions under active consideration. The present letter focuses on, inter alia, issues of importance for the discharge by the Commission of its mandate under the United Nations Convention on the Law of the Sea, including measures taken to improve its working methods following the deliberations that took place at the twenty-seventh Meeting of States Parties.

Membership of the Commission

3. At the forty-fourth session, before assuming their duties, the 20 members of the Commission elected at the twenty-seventh Meeting of States Parties for a term of five years each made the solemn declaration pursuant to rule 10 of the rules of procedure of the Commission (CLCS/40/Rev.1).

4. The Commission elected by acclamation Yong Ahn Park as Chair. Ivan Glumov, Martin Heinesen, Jair Marques and Simon Njuguna were elected by acclamation as Vice-Chairs. In accordance with rule 13 of the rules of procedure of the Commission, the Chair and the Vice-Chairs of the Commission were elected for a term of two and a half years.

* SPLOS/L.79.

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5. In view of the election of members of the Commission and for the benefit, in particular, of the newly elected members, the secretariat gave presentations addressing topics of relevance to the functioning of the Commission and made available a welcome package, consisting of basic documents, to the members of the Commission.

Consideration of submissions

6. During its forty-fourth, forty-fifth and forty-sixth sessions, the Commission and its subcommissions considered the submissions made by: the Russian Federation, in respect of the Arctic Ocean (partial revised submission); Brazil, in respect of the Brazilian Southern Region (partial revised submission); Norway, in respect of Bouvetøya and Dronning Maud Land; France and South Africa, jointly, in respect of the area of the Crozet Archipelago and the Prince Edward Islands; Kenya; Nigeria; Seychelles, in respect of the Northern Plateau Region; France, in respect of Reunion and the Saint-Paul and Amsterdam islands; Côte d'Ivoire; Sri Lanka; Portugal; and Tonga, in respect of the eastern part of the Kermadec Ridge. The submission of Mauritius in the region of Rodrigues Island was also pending before the Commission.

7. Draft recommendations prepared by the subcommissions established for consideration of the submission made by Norway in respect of Bouvetøya and Dronning Maud Land and of the submission made by Seychelles in respect of the Northern Plateau Region were before the plenary of the Commission at the forty-fourth and forty-sixth sessions. In relation to both recommendations, the Commission decided to accommodate requests made by the respective submitting States, in view of the election of new members of the Commission, to repeat their presentations, following the modalities provided for in paragraph 1 bis of section VI of annex III to the rules of procedure of the Commission. Both requests were accommodated on the understanding that the Commission would apply, mutatis mutandis, the modus operandi established in that paragraph. At its forty-sixth session, at the request of Norway, the Commission decided to defer the presentations by the subcommission and the delegation of Norway until the forty-seventh session, after which it would resume its consideration of the recommendations. At the same session, following presentations by the subcommission and the delegation of Seychelles, the Commission continued its consideration of the recommendations in private and identified key issues that would require further discussion at the forty-seventh session.

8. The Commission also heard presentations on new, amended or revised submissions made by several States since the previous Meeting of States Parties, namely, Brazil, in respect of the Brazilian equatorial margin (partial revised submission); Palau, in respect of the North Area (partial amended submission); Canada, in respect of the Atlantic Ocean; and Oman.

9. Since the previous Meeting of States Parties, the Commission has established subcommissions for the consideration of the submission made by Portugal and the partial submission made by Tonga, bringing the total number of submissions under active consideration to 13.

Working arrangements of the Commission

10. To address concerns expressed by some submitting States, the Commission revisited its internal working methods (see SPLOS/316, para. 58, and CLCS/100, paras. 78–82). At its forty-fourth session, the Commission decided that the Chairs of the subcommissions, when reporting to the Commission, would provide a more comprehensive and substantive account of their progress in the consideration of the submissions, highlighting areas that would benefit from guidance by the Commission,

as needed. This would allow for timely feedback from other members of the Commission, which could be taken into account by the subcommissions and conveyed, as appropriate, to the delegations of submitting States. This practice, already implemented, is expected to reduce or eliminate instances in which recommendations approved by the Commission depart substantially from the drafts prepared by the subcommissions. In addition, the Commission established a working group to consider the issues raised during the twenty-seventh Meeting of States Parties and to formulate proposals, and decided to reflect the contents of the report of the working group in the present letter (see paras. 11–14 and 28–30 below).

Workload of the Commission

11. At its forty-fourth session, the Commission decided that during the current five-year term of office, it would continue to meet for a total of 21 weeks per year by holding three sessions of seven weeks each, and that no two sessions would be sequential. Four of those 21 weeks would be devoted to plenary meetings.

12. The Commission decided to make every effort to proceed as quickly as possible through the backlog of submissions in a timely manner, without compromising the high standards of consideration of all relevant data and information submitted by coastal States. In this regard, the Commission emphasized that there were factors in the course of the consideration of submissions that were beyond the Commission's control and that might lengthen the duration of consideration of the submissions (see SPLOS/310, paras. 16–18). The Commission noted that a number of circumstances had arisen where the consideration of submissions had been suspended, either due to direct instruction from delegations to suspend consideration, or as a consequence of the time required by delegations to submit new data and information. In those cases, the Commission had elected to take up new submissions in order to keep members of the Commission fully occupied and maximize the efficiency of its sessions.

13. The Commission wishes to re-emphasize the importance of having a full membership and attendance to carry out its work in the most efficient manner (see SPLOS/310, paras. 14 and 31). The absence of a Commission member results in increased workload for the remaining members, in particular with regard to subcommission work. It also increases the risk of the lack of a quorum. The Commission therefore encourages the Meeting of States Parties to consider how to fill the present vacancy in the Commission.

14. In addition, the availability of secure means of online communication among members during and between sessions would greatly facilitate the work of the Commission.

Conditions of service

15. In respect of the suggestion made at the twenty-seventh Meeting of States Parties that the Commission should have an extended length of stay in New York (see SPLOS/316, para. 55), the Commission notes that it already has, from time to time, conveyed to the Meeting of States Parties matters related to the conditions of service that need to be addressed (see SPLOS/310, paras. 20–27). While it is grateful for the efforts made by the Meeting of States Parties and its open-ended working group on the conditions of service of members of the Commission, the Commission wishes to note that there are still matters that need urgent attention. In this respect, the Commission wishes to reiterate its position that with regard to the conditions of service of the members of the Commission, no distinction should be made between members from developing and developed States.

16. At its forty-fifth and forty-sixth sessions, the Commission conducted a preliminary internal survey on the conditions of service of its members in response to

a request from the coordinators of the open-ended working group on the conditions of service of members of the Commission for additional information, including in respect of medical and dental insurance coverage for members of the Commission.

17. The survey was conducted in the form of a questionnaire. Eighteen individual responses were received by the end of 2017, with four additional inputs during the forty-sixth session. The attention of the Meeting of States Parties is drawn to the below salient conclusions regarding the survey.

18. The conclusions only reflect the experience of the current members, and, in this regard, it is noted that most of the current members have only served for a limited time. Furthermore, the survey did not attempt to predict any future needs of the members of the Commission for medical or dental assistance.

19. At the outset, it is important to note that the average age of present members of the Commission is 60 years. Attending meetings in New York during a five-year period for 21 weeks per year represents, for this particular age group, a significant risk for health-related incidents during their stay, compounded by the fact that the members are placed in a situation of important responsibility and associated stress.

20. Regarding the need for medical assistance while performing their Commission duties at United Nations Headquarters, six members stated that they had already sought such assistance while in New York. Three members indicated that they had faced dental issues. Four members indicated that the lack of or insufficient medical insurance coverage had had an adverse impact on their ability to attend the sessions. Two members experienced such an adverse impact owing to the lack of sufficient dental coverage. Six members of the Commission indicated that they had pre-existing medical conditions.

21. Regarding medical insurance, nine responding members indicated that they were currently covered. Among them, four indicated that their insurance covered their extended stay in New York. However, only three of those nine members stated that their coverage would be sufficient to address all medical expenses that might occur while performing Commission duties. Seven other members indicated that they had purchased medical travel insurance for their stay at United Nations Headquarters in New York. Four of them indicated that it included dental insurance. Of all insured members, six indicated that the insurance was provided to them by the nominating State. Four members had purchased insurance at their own expense at a cost ranging from $800 to $2,200 per year. Some others were insured through their employers.

22. Of the 16 members who had medical or medical travel insurance, nine indicated that they would need to seek reimbursement after an out-of-pocket payment. Among those who had purchased medical or medical travel insurance at their own expense, three indicated they would be able to seek reimbursement from their nominating State, while 10 stated they would not be able to seek reimbursement. So far, it appears that out-of-pocket costs for medical expenses while performing Commission duties have been incurred by one member at an approximate cost of $100,000.

23. The trust fund established to facilitate the participation of members of the Commission from developing countries in the meetings of the Commission can reimburse medical travel insurance subject to the availability of funds. Nine members indicated that they would wish to be reimbursed for medical or medical travel insurance through the trust fund. However, such reimbursements are subject to the availability of funds.

24. In terms of general comments, some responding members highlighted that full medical insurance should be provided to all members of the Commission. It was also noted that medical travel insurance was insufficient and medical insurance with a broad and complete coverage was needed. It was recalled that a member of the

Commission had had a medical incident during a meeting of the Commission, with an ultimately fatal outcome. The considerable inconvenience of medical travel insurance, namely, the initial out-of-pocket payment with subsequent claim for a refund, was highlighted, given that members may not have sufficient funds for such a payment.

25. Ten members indicated that their attendance at sessions of the Commission at United Nations Headquarters in New York had caused them to experience loss of income, benefits or career opportunities. Four of them indicated that such loss of income or benefits had had an adverse impact on their ability to effectively perform their duties in the Commission.

26. In one case, in respect of the forty-fourth and forty-sixth sessions, a nominating State provided only the air ticket (without local transportation) and the cost of accommodation. Another member noted loss of an opportunity to work on a full-time basis in the private sector, emphasizing that staying in New York without a proper salary resulted in a personal financial burden. One member mentioned not being able to collect pension benefits while attending the sessions of the Commission. Another member indicated that as a result of being on a leave of absence to attend sessions of the Commission, retirement benefits for the member could not accrue. Several other issues pertaining to the cost of living in New York were also raised.

27. Concerning facilities and office space for the performance of their duties, most responding members indicated that they felt there was a need for additional office space or other amenities to adequately perform their duties in the Commission. Five among them stated that the existing facilities and arrangements had an adverse impact on their ability to perform their Commission duties efficiently and effectively. It was also observed that information technology facilities were somewhat dated, in particular in one of the geographic information system laboratories, and that some software packages were only at the basic level of licence.

Other matters

28. The Commission and its Committee on Confidentiality dealt with matters pertaining to confidentiality, addressing issues with regard to access by some members to data and information which submitting States had classified as confidential, pursuant to annex II to the rules of procedure of the Commission. More detailed information thereon is available in my statements on the progress of work in the Commission at its past three sessions (see CLCS/100, paras. 84–85, CLCS/101, para. 43, and CLCS/103, paras. 77–84).

29. With regard to concerns raised by some States in relation to the deferral of certain submissions owing to objections as a result of existing disputes (see SPLOS/316, para. 57), the Commission wishes to note that it is frequently informed of such disputes by States other than the submitting one. Decisions by the Commission to defer consideration of submissions owing to the existence of disputes is consistent with its rules of procedure. In this regard, submitting States are encouraged to contact the States that raised objections in order to seek their withdrawal of those objections that led to the deferment of the consideration by the Commission. States should take advantage of possible avenues available, including provisional arrangements of a practical nature as provided for in the United Nations Convention on the Law of the Sea.

30. With regard to concerns raised by some States in relation to the approval of recommendations "without a vote" (ibid., para. 58), the Commission would like to reiterate that, consistent with its rules of procedure, it makes its best endeavours to ensure that its work is accomplished by general agreement. Amendments to draft recommendations prepared by the subcommissions are always the result of extensive

review and consideration with a view to achieving consensus and, consequently, to enabling the Commission to approve the recommendations without a vote. Each submission is examined on its own merits and each recommendation is based on data and information supplied by the submitting State. While the rules of procedure provide that the consideration of recommendations at the level of the Commission is conducted in private, without the participation of the submitting State, in cases of disagreement with the recommendations approved by the Commission, the submitting State is entitled to make a revised or new submission in accordance with article 8 of annex II to the Convention. The Commission would like to assure the Meeting of States Parties that it will continue to uphold the integrity of the process and be guided by the Convention, as well as by its rules of procedure and the scientific and technical guidelines.

31. I would like to reiterate, on behalf of all members of the Commission, our gratitude to the Meeting of States Parties for its continued support for our work. The Commission appreciates, in particular, the enduring commitment of the Meeting of States Parties to identifying measures to assist the Commission in addressing its considerable workload and examining submissions efficiently.

32. On behalf of the Commission, I would also like to express gratitude to the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the Secretariat for the high standard of secretariat services rendered to the Commission.

33. I would like to request that the present letter be circulated as a document of the twenty-eighth Meeting of States Parties.

(*Signed*) Yong Ahn **Park**
Chair of the Commission on the Limits of the Continental Shelf